

REMARKS

Applicant hereby amends claims 1, 11, 14, 21, 29, 36, and 64. After entry of these amendments, claims 1-28 will be pending in the application and are presented for consideration. Claims 29-79 are presently withdrawn from consideration. Applicants submit that these amendments introduce no new matter to the application. Support for these amendments can be found in the application as originally filed, e.g., in paragraph 0016.

Applicant and Applicant's representative discussed the pending claims in the application with the Examiner on Thursday, October 5, 2006. The undersigned wishes to thank the Examiner for his time and courtesy extended during this telephonic interview. A common understanding was reached on many elements of the invention, and Applicant's representative is grateful for the suggestions offered by the Examiner. The following is intended to constitute a proper recordation of such interview in accordance with MPEP § 713.04.

The discussion focused on pending independent claim 1. It was agreed that claim 1 would overcome the reference (U.S. Patent No. 6,040,087 to Kawakami) if the limitation of claim 1 ("hollow region for containing the gaseous element") was amended to "a hollow region consisting essentially of a pressurized gas", since element 101 of Fig. 1 of Kawakami is a hydrogen storage allow (see col. 10, line 42 of Kawakami) and not a hollow region consisting essentially of a pressurized gas. The examiner suggested this could present new issues of patentability and it was then agreed that Applicant would submit a Request for Continued Examination ("RCE") amending this claim. The RCE is submitted herewith. This paper also revises the other independent claims to include this limitation.

The discussion then turned to the withdrawn claims and whether the claim amendments discussed above should render the withdrawn claims allowable. It was agreed that Applicant would summarize and present this information in this paper, for consideration by the Examiner.

A detailed response to the final Office Action follows, including Applicant's views concerning allowability of the withdrawn claims.

Rejection of Claim 11

The Office Action objects to claims 11 as including an unneeded comma. The comma is hereby deleted. Applicant submits that this amendment overcomes the objection.

Rejection under 35 U.S.C. § 112

The Office Action rejects claim 14 as being indefinite under 35 U.S.C. § 112, second paragraph, objecting to the language “related commercial ceramic materials.” Applicant hereby amends claim 14 to delete this phrase.

Rejection under 35 U.S.C. § 102 and 103

The Office Action rejects claims 1-10, and 19-28 under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a) as being anticipated by U.S. Patent No. 6,040,087 to Kawakami (“Kawakami”), or as being obvious over Kawakami, stating that the base material of Kawakami [102] defines a hollow region (page 4 of the Office Action). Without acquiescing to the rejection and as discussed above, Applicant hereby amends independent claims 1 and 21 to recite a hollow region consisting essentially of a pressurized gas. As discussed above, Applicant submits that Kawakami does not teach or suggest hollow region consisting essentially of a pressurized gas and is thus missing at least this element of Applicant’s amended claims. Moreover, Applicant submits that claims 2-9, 18-20, and 22-28 each also define patentable subject matter, as each depends from an allowable independent claim.

The Office Action further rejects claims 10-17 under 35 U.S.C. § 103(a) as being unpatentable over Kawakami in view of U.S. Patent No. 3,607,787 to Jung (“Jung”). Applicant submits that Jung does not teach or suggest a hollow region consisting essentially of a pressurized gas, and thus does cure the defects of Kawakami. Since neither Kawakami nor Jung, either alone or in combination, teach or suggest a hollow region consisting essentially of a pressurized gas, Applicant submits that claims 10-17 also define patentable subject matter, as each of these claims depend from allowable independent claim 1.

Withdrawn claims

Claims 29-79 are presently withdrawn from consideration. If independent claim 1 is found to be allowable, as discussed during the telephonic interview on October 5, 2006, Applicant hereby requests reconsideration and withdrawal of the requirement for restriction, and rejoinder of the withdrawn claims for the following reasons. The withdrawn claims have been amended in accordance with the requirements of MPEP § 821.04.

Currently amended independent claims 1 and 21 recite a composite material assembly and an electrode including the composite material assembly, respectively. Of the withdrawn claims, independent apparatus claims 29 and 36 recite an apparatus including a plurality of composite material assemblies, and a rechargeable electrochemical cell including the composite material assemblies, respectively. Thus, each of the withdrawn independent apparatus claims recite the composite material assembly of claim 1.

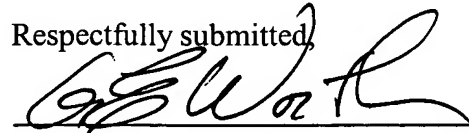
Applicant submits that the withdrawn combination claims (claims 29 and 36) would infringe independent subcombination claim 1. Since the subcombination (claim 1) is essential to the combination (claims 29 and 36), in accordance with MPEP § 805.05(c), Applicant submits the requirement for restriction should not be maintained. Moreover, since apparatus claims 29 and 36 include all the limitations of claim 1, Applicant submits that these nonelected claims, and the claims that depend therefrom, should be rejoined. See MPEP § 821.04(a).

The remaining withdrawn independent claim, method claim 64, recites a method of using the composite material assemblies of claim 1. Applicant submits that the requirement for restriction is improper and should be withdrawn because (A) the process of using as claimed in claim 64 can not be practiced with an apparatus materially different than claim 1, and (B) the apparatus of claim 1 can not be used in a process materially different than claim 64. See MPEP § 806.05(h). Thus, according to the provisions of MPEP § 821.04(b), Applicant submits that rejoinder of method claim 64, and the claims that depend therefrom, is proper.

In view of the foregoing, Applicant requests reconsideration, withdrawal of all grounds of rejection and objection, reconsideration of the requirement for restriction, rejoinder of the

withdrawn claims (as amended), and passage of the case to allowance. If the Examiner believes that a telephone conversation with Applicant's attorney would expedite allowance of this application, the Examiner is cordially invited to call the undersigned attorney at (617) 526-9626.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'G. E. Worth', is written over a horizontal line.

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